

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK  
\_\_\_\_\_  
LYLE TOMASKY,

Plaintiff,

v.

3:07-CV-1209  
(TJM)(DEP)

RICK HOYT; SHANIDA ROBINSON,

\_\_\_\_\_  
Defendants.

APPEARANCES:

LYLE TOMASKY  
Plaintiff, *pro se*

THOMAS J. McAVOY, SENIOR JUDGE

**DECISION and ORDER**

By Decision and Order filed January 16, 2008, this Court ruled that the complaint filed by *pro se* plaintiff Lyle Tomasky failed to state a claim against the named defendants upon which relief could be granted. Dkt. No. 7 at 2-4. In light of his *pro se* status, plaintiff was afforded an opportunity to file an amended complaint. *Id.* at 5-6. Plaintiff was advised that his failure to file an amended complaint within thirty (30) days of the filing date of the Court's Order "may result in the dismissal of this action, with prejudice. See Fed.R.Civ.P. 41(b)." *Id.* at 5.

Although more than sixty days have elapsed since the Court issued its Decision and Order, plaintiff has not submitted an amended complaint for the Court's consideration, nor has he requested additional time in which to do so. Indeed, the Court has not received any communications from plaintiff regarding this action since December, 2007, when plaintiff filed the required inmate authorization form. Dkt. No. 6. 2007.

Upon review, this action is dismissed due to plaintiff's failure to file an amended complaint which states a claim upon which relief may be granted by this Court. In light of plaintiff's *pro se* status, the Court hereby directs that the dismissal be without prejudice. See Fed.R.Civ.P. 41(b).

WHEREFORE, it is hereby

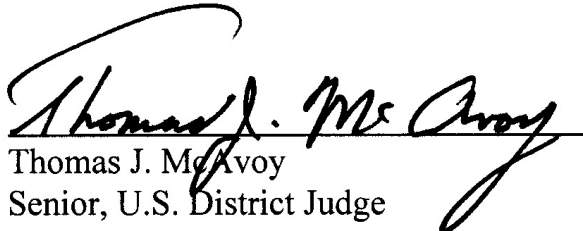
ORDERED, this action is dismissed, and it is further

ORDERED, that the Clerk of the Court enter judgment dismissing this action without prejudice, and it is further

ORDERED, that the Clerk serve a copy of this Decision and Order on plaintiff.

IT IS SO ORDERED.

Dated: March 27, 2008

  
Thomas J. McAvoy  
Senior, U.S. District Judge